

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Treatment of Guam Telephone ) CC Docket No. 97-134  
Authority and Similarly Situated )  
Carriers as Incumbent Local Exchange )  
Carriers under Section 251(h)(2) )  
of the Communications Act )

**REPLY COMMENTS OF GTE**

GTE Service Corporation ("GTESC") and the Micronesian Telecommunications Corporation ("MTC")<sup>1</sup> (collectively "GTE") respond to the comments of other parties regarding the application of Section 251 of the Act<sup>2</sup> to MTC.

**I. MTC IS AN INCUMBENT LEC.**

The Commonwealth of the Northern Mariana Islands ("Commonwealth") and IT&E Overseas, Inc. ("IT&E") both filed comments requesting the Commission to rule that MTC is an incumbent Local Exchange Carrier ("LEC")

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<sup>1</sup> MTC is a subsidiary of GTE Hawaiian Telephone Company, Incorporated, which, in turn, is a subsidiary of GTE Corporation. MTC provides both exchange, exchange access, and long distance telecommunications services from the Commonwealth of the Northern Mariana Islands (the "CNMI").

<sup>2</sup> 47 U.S.C. § 251.

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subject to Section 251(h)(1) or Section 251(h)(2) of the Act.<sup>3</sup> In addition, the Commonwealth filed a separate Petition for Declaratory Ruling requesting that the Commission declare MTC an incumbent LEC under Section 251(h)(1).<sup>4</sup> MTC has responded to that Petition.<sup>5</sup>

MTC is an incumbent LEC under the definition of an incumbent LEC set forth in Section 251(h)(1) of the 1996 Act. Neither MTC nor any other GTE-affiliated entity has disputed that MTC is an incumbent LEC. There is, therefore, no need for any further ruling of this fact.

**II. MTC IS A RURAL CARRIER AND HAS CLAIMED THE RURAL EXEMPTION. THE STATE AUTHORITY SHOULD CONSIDER THIS ISSUE IN ACCORDANCE WITH THE STATUTORY DIRECTION.**

MTC is a rural telephone company as defined in Section 3(37) of the 1996 Act. Pursuant to that definition, a LEC is a rural telephone company if it meets one of the listed criteria.<sup>6</sup> MTC satisfies three of the four criteria specified in

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<sup>3</sup> See Comments of the Commonwealth and IT&E, CC Docket No. 96-134, dated July 7, 1997.

<sup>4</sup> See *Petition for Declaratory Ruling of the Commonwealth of the Northern Mariana Islands*, dated July 14, 1997. ("*Commonwealth Petition*")

<sup>5</sup> See Opposition of Micronesian Telecommunications Corporation, filed July 24, 1997.

<sup>6</sup> The Commission found the Guam Telephone Authority to be a rural telephone company because it satisfied one of the four criteria for rural telephone company status, *i.e.*, it provides service to fewer than 100,000 access lines. See *Declaratory Ruling and Notice of Proposed Rulemaking*, FCC 97-171, released May 19, 1997, at ¶ 2.

Section 3(37) of the Act.<sup>7</sup> MTC's operating area is comprised of one study area that serves 17,986 total billable access lines (1996 ARMIS 43-01) and 17,632 switched access lines (1996 ARMIS 43-08).<sup>8</sup> None of the inhabited islands, each of which is a separate municipality, has a population of more than 50,000. Based upon these facts, MTC has claimed that it is a rural carrier eligible for an exemption, pursuant to Section 251(f)(1), from certain obligations and timelines for negotiating interconnection, resale and other items.

There should be no dispute that the proper resolution of the issue of a carrier's rural exemption should be determined by the relevant state authority.<sup>9</sup> The 1996 Act clearly states that Section 251(c) "shall not apply to a rural telephone company" until it receives a bona fide request and the state commission makes a finding pursuant to Section 251(f)(1)(B). Section 251(f)(1)(B) establishes the procedure which requires that "[t]he party making a bona fide request of a rural telephone company for interconnection, services or network elements shall submit a notice of its request to the State commission." Thus, the FCC has no authority to rule on a carrier's claim to a rural exemption.

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<sup>7</sup> 47 U.S.C. §153(37)(B),(C),(D).

<sup>8</sup> Approximately, 16,000 main access lines, 300 PBX and centrex trunks, and 1,200 centrex extensions.

<sup>9</sup> 47 U.S.C. §251(f)(1)(B). See also 47 C.F.R. §51.401; *Iowa Utilities Board v. FCC*, No. 96-3321, slip op. at 118-120 (8<sup>th</sup> Cir. Jul. 18, 1997).

**III. THE COMMONWEALTH CONTRADICTS ITSELF IN WANTING TO BE TREATED AS RURAL FOR UNIVERSAL SERVICE FUNDING AND NON-RURAL FOR INTERCONNECTION.**

The Commonwealth has repeatedly lobbied for universal service support for the CNMI for long distance services, rural healthcare, and for schools and libraries because of the high costs of providing service.<sup>10</sup> GTE understands the Commonwealth's concern about subscriber penetration and rate levels in the CNMI, and has secured high cost support for local service in order to reduce the burden on MTC's subscribers due to the high cost of providing service in the CNMI.<sup>11</sup>

MTC is very concerned that if it is classified as non-rural and required to use a cost model that is developed for non-rural areas, the model will not adequately capture the unique cost characteristics associated with serving an insular area; e.g., coral soil, typhoon-proof plant, submarine cable and international satellite systems. MTC believes that the subscribers in the CNMI will be served best by using average embedded costs as a basis for high cost support. The Commission recognized this in the Universal Service Order by

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<sup>10</sup> See, for example, *Ex Parte* dated September 24, 1996, Re: CC Docket Nos. 96-45; 96-146 and 93-22, filed by the Commonwealth. See also, *Federal State Board on Universal Service, Recommended Decision, FCC 96J-3*, released November 8, 1996, at ¶ 435: "We recommend that the Commission take no specific action regarding cost support for toll service to the Northern Mariana Islands at this time."

<sup>11</sup> MTC will receive approximately \$2.4 million in high cost support in 1997.

finding that Guam and the CNMI should receive support based on an estimate of annual amount of embedded costs.<sup>12</sup>

The Commonwealth cannot have it both ways. MTC is either a rural or a non-rural incumbent LEC. If the Commonwealth wants to continue to enjoy the benefits of high cost support based on embedded costs, which for 1998 will put almost \$3 million towards subsidizing the high cost of local service, then it cannot have MTC declared non-rural. In any case, just as with the determination of the rural exemption, the issue of rural or non-rural appropriately belongs before the state commissions, not the FCC.

#### **IV. SUBSCRIBERSHIP IN THE CNMI WILL NOT NECESSARILY INCREASE AS A RESULT OF LOCAL COMPETITION.**

The entire archipelago has a population in the range of 52,000 to 59,000 (depending on which statistics are used),<sup>13</sup> with approximately one-half of the population being composed of non-resident aliens supporting the garment and tourism industries. These non-resident foreign workers generally are on short-

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<sup>12</sup> See *Federal State Board on Universal Service*, Report and Order, FCC 97-157, released May 8, 1997, at ¶318.

<sup>13</sup> See Comments of the Commonwealth of the Northern Mariana Islands, CC Docket No. 97-134, dated July 7, 1997, at 4, "total population of 58,846." See also, *World Fact Book* ([www.odci.gov/cia/publications/nsolo/factbook](http://www.odci.gov/cia/publications/nsolo/factbook)) which reports 52,284 as a July 1996 estimate, p.2; *Bank of Hawaii* which reports 52,900 in 1992 (p.2) and 57,514 in 1993 (p.3) with the statistics coming from different sources.

term contracts averaging less than five years.<sup>14</sup> 1993 statistics reflect a non-resident population of 28,109.<sup>15</sup> Further the Department of Insular Affairs confirms that: "The 1995 mid decade census preliminary results show a total population of 59,913 persons. Non-United States citizens make up 54 percent of the population . . . ."<sup>16</sup> The *Bank of Hawaii* (p.3) reports 21,857 non-resident work permits issued in 1990 and the *World Fact Book* substantiates this with its report of 21,188 foreign workers in 1990. The variation in the population count most likely is a result of the peaks and valleys in the economy and the number of foreign workers in-residence at the time of the different counts.

The unique situation in the CNMI, where over fifty percent of the population is composed of foreign workers, impacts telephone service. The non-resident population is reflected in the number of housing units which totaled 8,210 in 1990 for a population at that time of 43,345.<sup>17</sup> This is because most of the non-resident population resides in dormitories provided by employers that are obligated to provide for certain utilities, such as telephone service.<sup>18</sup>

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<sup>14</sup> See *Bank of Hawaii*, p.2.

<sup>15</sup> *Id.*, p.3.

<sup>16</sup> See [www.doi.gov/oia/chapter3.html](http://www.doi.gov/oia/chapter3.html), p.1.

<sup>17</sup> See [saipan.com](http://saipan.com), p.11.

<sup>18</sup> Often one telephone may be provided for all the residents of that building.

Further, economic conditions and cultural differences must be taken into consideration. The foreign workers come mostly from the Philippines and other nearby islands, many of which do not regard the telephone as an essential utility. Even some of the resident population, particularly of the smaller islands where most things are within walking distance, may not consider the telephone a necessity.

In fact, 1990 statistics report that of the total housing units in the CNMI 91 percent had electricity; 85 percent had a vehicle;<sup>19</sup> 83 percent had refrigerators; 78 percent had a television; 72 percent had complete plumbing; 60 percent had telephones; and 52 percent had air conditioning. The minimum wage, which until recently was less than \$3.00 an hour, is significantly less than the minimum wage on the U.S. Mainland.

The Commonwealth's belief that lower telecommunications rates brought about by competition would likely increase subscribership may not be the case in the CNMI. The costs of doing business in the CNMI are significant because of its Pacific island location. Further, the demographics of the population may affect the demand for service. Each of these must be considered when evaluating subscribership.

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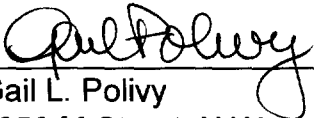
<sup>19</sup> *Bank of Hawaii*, p.2; saipan.com, p.11.

**V. CONCLUSION**

Like Guam, the CNMI is a rural insular area. The CNMI should continue to receive universal service support. MTC, the local exchange carrier serving the CNMI is properly treated as a rural carrier.

Respectfully submitted,

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July 28, 1997

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## **Certificate of Service**

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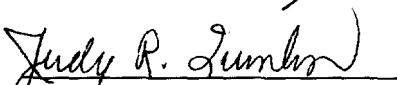
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